

93<sup>d</sup> CONGRESS  
1<sup>st</sup> SESSION

# H. R. 188

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1973

Mr. EDWARDS of California introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) title 28 of the United States Code is amended by
- 4 inserting immediately after chapter 175 the following new
- 5 chapter:

1                   **"Chapter 177—DISSEMINATION OF ARREST**  
2                   **RECORDS**

          "Sec.

          "3101. Dissemination by Federal officer or employee; only to law enforcement agencies.

          "3102. Prohibition of dissemination, maintenance and use of arrest records.

          "3103. Inspection of arrest records.

          "3104. Prevention of illegal dissemination or use; correction of incorrect arrest records.

          "3105. Court orders allowing dissemination, maintenance, or use in certain cases.

          "3106. Questions concerning arrest.

          "3107. Penalties.

          "3108. Definitions.

          "3109. Regulations.

          "3110. Effective date.

3   **"§ 3101. Dissemination by Federal officer or employee;**  
4                   **only to law enforcement agencies**

5            “(a) No officer or employee of the United States or of  
6 any federally assisted law enforcement agency may disseminate in any manner any criminal arrest record to any person  
7 other than another officer or employee of a law enforcement  
8 agency.

10           “(b) No officer or employee of any law enforcement  
11 agency may disseminate to any person, other than another  
12 officer or employee of a law enforcement agency, a criminal  
13 arrest record received from an officer or employee of the  
14 United States or of a federally assisted law enforcement  
15 agency.

1 "§3102. Prohibition of dissemination, maintenance, and  
2 use of arrest records

3 "(a) No officer or employee of the United States or of  
4 a federally assisted law enforcement agency, and with respect  
5 to a criminal arrest record received from an officer or em-  
6 ployee of the United States or of a federally assisted law en-  
7 forcement agency, no officer or employee of any law  
8 enforcement agency, may disseminate to any person a crim-  
9 inal arrest record—

10 "(1) relating to an arrest which occurred more  
11 than two years before the date of such dissemination  
12 and concerning which there is no prosecution pending  
13 in a court;

14 "(2) relating to an arrest concerning which the  
15 prosecuting attorney responsible for conducting any  
16 prosecution arising out of such arrest agrees no prosecu-  
17 tion is warranted and that no criminal arrest record  
18 should be kept; or

19 "(3) which is expunged, or prohibited from being  
20 maintained, used, or disseminated under a provision of  
21 the law of the State in which the arrest which is the

1 subject of such record occurred, or by order of a court  
2 having jurisdiction with respect to such arrest.

3 “(b) No officer or employee of any law enforcement  
4 agency may disseminate any arrest record specified in sub-  
5 section (a) which was received by such officer or employee  
6 from any officer or employee of the United States or of a  
7 federally assisted law enforcement agency.

8 “(c) Clause 1 of subsection (a) shall not apply to a  
9 criminal arrest record concerning any person who has been  
10 convicted of at least one felony under the laws of the United  
11 States or of any State.

12 “(d) No officer or employee of the United States or of  
13 a federally assisted law enforcement agency may maintain or  
14 use any criminal arrest record which is prohibited from being  
15 disseminated under subsection (a) except that a court may  
16 maintain and use a sealed criminal arrest record.

17 “(e) The dissemination, maintenance, or use of a crim-  
18 inal arrest record specified in subsection (a), (b), or (d)  
19 may be permitted by or in accordance with a court order  
20 issued under section 3105.

21 **“§ 3103. Inspection of arrest records**

22 “Every person shall have the right to inspect any  
23 criminal arrest record concerning him maintained by any  
24 officer or employee of the United States or of a federally

1 the United States or of such law enforcement agency whose  
2 duty it is to maintain criminal arrest records shall prescribe  
3 such regulations as are necessary to enable any person, upon  
4 request and proper identification, to procure the criminal  
5 arrest record concerning such person maintained by such  
6 officer or employee at the time of the request. In addition,  
7 such officer or employee shall keep, and upon such request,  
8 disclose to such person the name of all persons to whom such  
9 officer or employee transmitted or communicated such arrest  
10 record during the six-month period preceding the request.

11 **“§ 3101. Prevention of illegal dissemination or use; cor-**  
12 **rection of incorrect arrest records**

13 “If at any time a person has reason to believe that a  
14 criminal arrest record concerning him will be maintained or  
15 disseminated by any officer or employee of the United States  
16 or of any federally assisted law enforcement agency, in viola-  
17 tion of the provisions of this chapter, or that information in a  
18 criminal arrest record maintained by such an officer or em-  
19 ployee is incorrect, such person may petition any United  
20 States district court to issue an order enjoining such mainte-  
21 nance or dissemination, or correcting such record.

22 **“§ 3105. Court orders allowing dissemination, mainte-**  
23 **nance, or use in certain cases**

24 “(a) The Attorney General or any officer of a law

1 court of competent jurisdiction for, and such court may grant,  
2 after a hearing, an order authorizing or approving the dis-  
3 semination, maintenance, or use of a criminal arrest record,  
4 which is otherwise prohibited under section 3102, by the  
5 Attorney General or by an officer of a law enforcement  
6 agency, if the applicant can show by substantial and con-  
7 vincing evidence that there is a compelling public interest  
8 in such dissemination, maintenance, or use.

9 “(b) Each application for an order authorizing or ap-  
10 proving the dissemination, use, or maintenance of an arrest  
11 record shall be made in writing upon oath or affirmation  
12 to a Federal court of competent jurisdiction and shall state  
13 the applicant's authority to make such application. Each  
14 application shall include the following information:

15 “(1) the identity of the law enforcement officer  
16 making the application, and the officer authorizing the  
17 application; and

18 “(2) a full and complete statement of the facts  
19 and circumstances relied upon by the applicant, to jus-  
20 tify his belief that an order should be issued.

21 “(c) The court may require the applicant to furnish  
22 additional testimony or documentary evidence in support  
23 of the application.

24 “(d) Orders granted under this section shall be sealed  
25 by the court. Custody of the orders shall be wherever the

1 court directs. Such orders shall be disclosed only upon a  
2 showing of good cause before a court of competent jurisdic-  
3 tion and shall not be destroyed except on order of the issu-  
4 ing or denying court.

5 “(c) Any violation of the provisions of this section  
6 may be punished as contempt of the issuing or denying  
7 court. ...

8 **“§ 3106. Questions concerning arrest**

9 “In responding to any question concerning any arrest  
10 the respondent may consider such question to apply only  
11 to an arrest the record of which may be lawfully dissemi-  
12 nated, maintained, or used by the Attorney General. No  
13 person shall be required to waive the right granted to him  
14 by this section nor shall any person be penalized in any  
15 manner for exercising such right.

16 **“§ 3107. Penalties**

17 “(a) Any person with respect to whom a criminal  
18 arrest record has been maintained, disseminated, or used in  
19 violation of this chapter shall have a civil cause of action  
20 against the person responsible for such violation and shall  
21 be entitled to recover from any such person actual damages  
22 and reasonable attorney's fees and other litigation costs  
23 reasonably incurred. Exemplary damages may be granted  
24 by the court in appropriate cases.

1 a criminal arrest record knowing such dissemination, main-  
2 tenance, or use to be in violation of this Act shall be fined  
3 not more than \$1,000 or imprisoned for not more than one  
4 year, or both.

5 "§ 3108. Definitions

6 "As used in this chapter—

7 "(a) The term 'law enforcement' means any activity  
8 pertaining to crime prevention, control, or reduction or the  
9 enforcement of the criminal law, including, but not limited  
10 to, police efforts to prevent, control, or reduce crime or to  
11 apprehend criminals, activities of courts having criminal ju-  
12 risdiction and related agencies, activities of corrections, pro-  
13 bation, or parole authorities, and programs relating to the  
14 prevention, control, or reduction of juvenile delinquency or  
15 narcotic addiction.

16 "(b) The term 'State' means any State of the United  
17 States, the District of Columbia, the Commonwealth of  
18 Puerto Rico, and any territory or possession of the United  
19 States.

20 "(c) The term 'Federal court of competent jurisdiction'  
21 means a United States district court or a United States court  
22 of appeals.

23 "(d) The term 'criminal arrest record' means records  
24 and related data (including fingerprints) compiled by law  
25 enforcement agencies for purposes of identifying criminal of-



1 offenders and alleged offenders and maintaining as to such  
2 persons summaries of arrests and the nature and disposition  
3 of criminal charges arising out of such arrest.

4 “(e) The term ‘federally assisted law enforcement  
5 agency’ means a public agency which performs as its prin-  
6 cipal function activities pertaining to law enforcement and  
7 which is funded, in whole or in part, from grants received  
8 under the Omnibus Crime Control and Safe Streets Act of  
9 1968 (42 U.S.C. 3731-3737).

10 **“§ 3109. Regulations**

11 “The Attorney General, after consulting with officers and  
12 members of State and local law enforcement agencies, shall  
13 prescribe such regulations as he deems necessary to carry  
14 out the provisions of this Act.

15 **“§ 3110. Effective date**

16 “This chapter shall take effect on and after the one  
17 hundred and twentieth day after the date of enactment of  
18 this chapter, except for section 3102 (d) which shall take  
19 effect at the end of the one year period beginning on the  
20 date of enactment of this chapter.”

21 (b) The chapter analysis of part VI of title 28 of the  
22 United States Code is amended by inserting immediately  
23 after:

“175. Civil Commitment and Rehabilitation of Narcotic Addicts”

24 the following new item:

Approved For Release 2005/08/03 : CIA-RDP80B01495R000500040008-8

“177. Dissemination of Arrest Records”.

80th CONGRESS  
1st Session  
H. R. 103

## A BILL

To amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy.

By Mr. EDWARDS of California

JANUARY 3, 1973

Referred to the Committee on the Judiciary

### ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Criminal Justice Data

FROM:

OLC  
7D35

EXTENSION

NO.

DATE

9 April 1974

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S  
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. DDI

2.

3.

4.

5.

6.

7.

8.

9.

Your comments were previously requested concerning S. 2963 and S. 2964, bills which control the storage and dissemination of criminal justice data, to determine the effect upon the Agency. Chairman Rodino of the House Judiciary Committee has now requested Agency comments on H. R. 12474 (S. 2964) and H. R. 12475 (S. 2963), the identical bills in the House, as well as comments on the attached bills, H. R. 188 and H. R. 9783 on the same subject.

In order to prepare the Agency reply or replies on all of the bills, we would appreciate your additional comments on H. R. 188 and H. R. 9783.

Please respond no later than 16 April.

Assistant Legislative Counsel

MEMORANDUM FOR:



Could you give us your advice on the attached. My first thought was that the DDI would have no problems with H-R-188 and H-R-9783. But, would they (188 especially) give ~~45~~ potential problems in getting all the info we need on prospective employees?



10 Apr 74  
(DATE)

FORM NO. 101 REPLACES FORM 10-101  
1 AUG 54 WHICH MAY BE USED.

(47)